

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

- v -

JAMES G. MARQUEZ,

Defendant,

**PETITION FOR ADJUDICATION
OF INTEREST PURSUANT TO
21 U.S.C. § 853(n)**

06 Cr. 1138 (CM)

BUSEY BANK, N.A., f/k/a
BUSEY BANK OF FLORIDA,

Petitioner.

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Petitioner, BUSEY BANK, N.A., f/k/a BUSEY BANK OF FLORIDA (hereinafter the "Bank"), by and through its attorneys, Oxman, Tulis, Kirkpatrick, Whyatt & Geiger, LLP, as and for its Petition for the Adjudication of its interest in property subject to criminal forfeiture pursuant to 21 USC § 853(n), respectfully petitions as follows:

1. The Petitioner, Busey Bank, N.A., is the successor in interest to Busey Bank of Florida.

2. This Court has before it presently the question of forfeiture to the United States Government property located at 1621 Gaspar Drive South, Boca Grande, Florida 33921, more particularly described as that certain plot and parcel of property know as "Lot 4, Boca Grand Isles, a Subdivision according to the Plat thereof as recorded in Plat Book 29, Pages 4 through 6, of the Public Records of Lee County, Florida, also known as Parcel No.: 14-43-20-09-00000.0040" (hereinafter the "Property Subject to Foreclosure").

3. The Bank claims an interest in the Property Subject to Foreclosure as follows:

a. On or about May 27, 2005, for value received and in consideration of a loan in the amount of \$1,150,000.00, Defendant James G. Marquez and his wife, Mariella Marquez, executed their Promissory Note, in writing, by the terms of which they promised

and agreed to pay Bank the sum of \$1,150,000.00, plus interest at the contract rate as stated in said Note. A copy of said Note is annexed hereto as Exhibit A.

b. In order to secure payment of said Note, the Defendant and his wife, at the same time and as part of the same transaction, duly made, executed and delivered to Bank a Mortgage dated May 27, 2005, by which they granted and conveyed to Bank a security interest in the Property Subject to Foreclosure. Thereafter, on June 2, 2005, said Mortgage was duly filed for record in the office of the County Clerk of the County of Lee, Florida, and entered in Book 04734, Pages 4391 - 4403, as Instrument No.: 6822043, and at that time all recording and registration fees were paid in full thereon. A copy of said Mortgage is annexed hereto as Exhibit B.

4. The Bank acquired the Note and Mortgage without knowledge of, or consenting to, any act or omission of Defendant James G. Marquez, or any other person, that would give rise to a claim of forfeiture against the property.

5. The interest of the Bank in the Property Subject to Forfeiture is prior, paramount and superior to any interest of any other party in the property.

6. As of the date of this Petition, the Bank is owed the total amount of \$1,189,218.97 from Defendant James G. Marquez and his wife, Mariella Marquez, broken down as follows:

a.	Outstanding Principal:	\$1,124,207.85
b.	Accrued Interest to 4/3/07:	\$ 60,420.66
c.	Late Fees:	\$ 1,552.96
d.	Title search	\$ 250.00
e.	Attorney's Fees pursuant to Paragraph 14 of Mortgage:	
	Duncan & Tardif:	\$ 1,422.50
	Oxman Tulis et al.:	\$ 1,365.00.

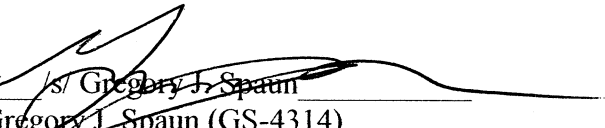
Interest continues to accrue after 4/3/07 at the daily rate of \$554.40, and legal fees will continue to accrue in accordance with the work performed in this matter.

WHEREFORE, the Bank prays that this Court:

- 1) Enter a judgment for restitution to the full extent of its interest in the Property Subject to Foreclosure, including interest, late fees, and counsel fees, as payees and holders of the Note and Mortgage dated May 27, 2005;
- 2) Declare that its interest in the property is prior, paramount and superior to any other interest of any other party;
- 3) Declare that any sale or other disposition of the Property Subject to Foreclosure be subject to its interest and that the indebtedness represented by the Note as secured by the Mortgage be satisfied out of the proceeds of any sale or other disposition of the property;
- 4) Award the Bank its reasonable attorney fees and costs incurred herein; and
- 5) Render such other, further and different relief as it may deem just and proper in the circumstances.

Dated: White Plains, New York
April 3, 2007

**OXMAN, TULIS, KIRKPATRICK,
WHYATT & GEIGER, LLP**
Attorneys for Busey Bank, N.A.

By: 

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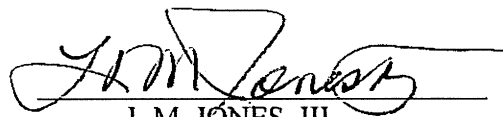
Petitioner.
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**VERIFICATION OF PETITION
FOR ADJUDICATION OF INTEREST
PURSUANT TO 21 U.S.C. § 853(n)**

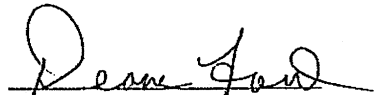
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STATE OF FLORIDA)
) ss.:
COUNTY OF LEE)

L.M. JONES, III being duly sworn, deposes and says: I am the Vice President of Petitioner BUSEY BANK, N.A, f/k/a BUSEY BANK OF FLORIDA.. I have read the annexed Petition for Adjudication of Interest Pursuant to 21 U.S.C. § 853(n) and know the contents thereof and the same are true to my own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters I believe it to be true.


L.M. JONES, III

Sworn to before me this
3rd day of April, 2007


Notary Public

